IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 4572 OF 2004
IN
CRIMINAL APPEAL NO. 1275 OF 2004

Shirya Nana Tabale .. Applicant

Vs.

The State of Maharashtra .. Respondent

Mr. Vaibhav A. Sugdare, Advocate appointed for the applicant.

Ms. P.H. Kantharia, APP for State.

CORAM : B. H. MARLAPALLE &
SMT. R.S. DALVI,JJ.

Date : February 01, 2006.

P.C.:

1. This is an application for being released on bail during the pendency of Criminal Appeal No.1275 of 2004 filed by the applicant against an order of his conviction and sentence for the offence punishable under Section 302 of IPC.

2. In support of this bail application it is submitted that the evidence led before the trial court does make out a case to suspend the order of sentence and release the applicant on bail during the pendency of the appeal.

3. The deceased Shravan was the brother of the applicant. As per the prosecution case the applicant had inflicted multiple injuries with a scythe on the deceased on account of some quarrel between the brothers and P.W.1 Kamal when intervened also received injuries. Prosecution examined in all 12 witnesses, 3 of them turned hostile, but as per the trial court's order the evidence of P.W.1, P.W.4, P.W.6 and P.W.11 has proved the prosecution case beyond reasonable doubt.

4. We have heard the learned counsel for the applicant and having gone through the reasoning set out in the order of conviction and sentence, we do not find any case to release the applicant on bail by suspending the order of sentence under Section 389 of Cr.P.C. Hence the application is rejected.

5. It would be appropriate that the pending appeal is heard expeditiously and, therefore, the applicant is at liberty to apply for early hearing of the said Criminal Appeal as soon as the paper book is ready.

(qSmt.R.S. Dalvi,J.) **(B.H. Marlapalle, J.)**